

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 90-583-T - ORDER NO. 91-366 ✓  
MAY 21, 1991

IN RE:	Application of Coastal Transport, Inc.,	)	ORDER
	703 South George Street, P. O. Box 1277,	)	DENYING
	Goldsboro, NC 27533-1277, filed August 27,	)	REQUEST
	1990, for a Class E Certificate to transport	)	FOR
	Petroleum and Petroleum Products, in Bulk	)	CLASS E
	Packages, and Drums: Between Points and	)	CERTIFICATE
	Places in South Carolina	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed on behalf of Coastal Transport, Inc. (Coastal or the Company) for a Class E Certificate to transport petroleum and petroleum products, in bulk, packages and drums between points and places in South Carolina.

The Commission's Executive Director instructed the Company to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas, once a week for one week. The purpose of the Notice of Filing was to inform interested parties of the nature of the Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. Thereafter, the Company provided the Commission with the proof of publication of the Notice of Filing.

Petitions to Intervene were filed on behalf of Fleet

Transport, Associated Petroleum Carriers, Petroleum Transport Company, Inc., Kenan Transport Company, Eagle Transport Corporation, Infinger Transportation Co., Inc., and Belue Transport Company, Inc. (the Intervenor). Fleet Transport subsequently withdrew its intervention.

A public hearing was held on Thursday, March 14, 1991, at 10:30 A.M. in the Hearing Room of the Commission at 111 Doctor's Circle, Columbia, South Carolina with the Honorable Marjorie Amos-Frazier presiding. Robert T. Bockman, Esquire, represented the Company; Thomas M. Boulware, Esquire, and Frank R. Ellerbe, III, Esquire, represented the Intervenor; and Marsha A. Ward, General Counsel, represented the Commission Staff.

The Company presented the testimony of S. Dillon Wooten, Jr. Witness Wooten presented a brief overview and explanation of the request of the Company. He described the financial status of the Company, its safety record, and its new equipment, all of which would enable the Company to provide better shipping service to customers in South Carolina. Additionally, the Company presented the testimony of Joe Powell, Operations Manager for Dilmar Oil Company. Dilmar is a petroleum marketer that has used the services of Coastal.

Belue Trucking Co., Inc. presented Mr. Perry Belue as a witness on its behalf; Kenan Transport Co. presented Mr. Garnett Morton; Infinger Transportation Co., Inc. presented Mr. Walter Frick; and Associated Petroleum Carriers presented Mr. O'Neil Sanders. These witnesses testified to the impact on the market,

and specifically to their petroleum business, of an additional petroleum carrier with intrastate authority in South Carolina.

The Intervenors sponsored the testimony of Mr. Robert J. Zuelsdorf. In his testimony, Witness Zuelsdorf presented his view of the current status of trucking services in South Carolina based upon a survey on intrastate carriage of petroleum products.

The Commission has considered the evidence in the record before it presented by the Company, the Intervenors, and the Commission Staff. Based upon the record before the Commission, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. That the current operations of Coastal include interstate authority and intrastate authority in North Carolina for petroleum products and liquid fertilizer.

2. That Coastal has a Class F Certificate to transport petroleum products for Dilmar Oil Company in South Carolina.

3. That Coastal has facilities in Goldsboro and Charlotte, North Carolina, and employs 50 people.

4. That the Company's present financial status is adequate, although its earnings for 1990 do not compare favorably to 1989 earnings. It has recently modernized its equipment to meet weight law changes.

5. The Commission notes that in 1987 the Company applied for a similar Class E Certificate but was denied by Order No. 88-199, issued in Docket No. 87-391-T on March 3, 1988. The denial of the

request in 1988 has no bearing on the Commission's decision in this Docket.

6. That the Company presently has a satisfactory safety rating from the Department of Transportation (DOT).

7. That the Company was recently fined \$8,036 by the DOT as a record keeping penalty for failure to properly maintain its records.

8. That the Company has recently purchased 12 new trailers and 14 new tractors and has 29 power units available system-wide.

9. That while Coastal asserts it could provide statewide service in South Carolina from its existing North Carolina facilities, it would be capable of building any necessary facilities in South Carolina.

10. That the Company presently has five to ten trucks operating in South Carolina on a daily basis.

11. That the Company does not have any liquefied petroleum gas (LPG) equipment at this time and does not make any LPG shipments.

12. That Dilmar Oil Company has used the service of Coastal under its Class F Certificate and found it to be extremely satisfactory.

13. That over 50% of Dilmar's business is interstate in nature.

14. That the intervenor carrier witnesses provided information to the Commission which generally indicated that the petroleum market in South Carolina is flat and that at least for

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the carriers appearing before the Commission, petroleum shipments have declined between 1989 and 1990, as had intrastate miles and intrastate revenues.

15. That existing intrastate petroleum carriers have reduced their personnel and equipment, in addition to seeking rate relief.

16. That while none of the petroleum carrier witnesses had performed any studies to determine how much business would be diverted if Coastal was granted intrastate authority, the intervenors did support a study conducted by Mr. Zuelsdorf.

17. The study performed by Mr. Zuelsdorf concerned petroleum products carriage by common and contract motor carriers.

18. Mr. Zuelsdorf is employed by Wilbur Smith Associates as a Senior Freight Transportation Economist and directs the firm's Transportation Planning Division.

19. That the survey compiled by witness Zuelsdorf was entered into evidence as Hearing Exhibit No. 9.

20. That the survey and the testimony of witness Zuelsdorf explain the purpose of report, which types of carriers and shippers were surveyed, the response rate, and various source documents, as well as the survey forms. The response rate and conduct of the survey was sufficient to rely on the results.

21. That based upon the survey, the following facts were deduced:

- a. That there was no significant growth in fuel consumption in South Carolina between 1983-1988.
- b. That the volume of petroleum products consumed is

not increasing, but the number of intrastate petroleum carriers has increased. This results in lower volume per company per truck. This is a downward trend.

- c. That of the shippers surveyed and responding, two-thirds rely exclusively on common or contract carriage; that most deliveries are needed the next day; that most shippers indicate that their shipments are on time 90-100% of the time; that most shippers do not have problems with the motor carriers they use, that 97.8% of the shippers indicate that the motor carriers are good or excellent in handling complaints, or they have no complaints; that 96.8% of the shippers rated the existing carriers' service as good or excellent; that approximately one half (45.7%) of the shippers did not foresee any need for increased trucking services, and 44.7% foresee some increase but feel that the existing firms will be able to meet that need.
- d. That of the motor carriers surveyed and responding the implication exists that there are quite a few large petroleum products common/contract carriers in South Carolina; that there is a range of petroleum carriers in South Carolina from large firms to small firms so that the users of the commodity have a

choice; that most of the petroleum carriers carry the major petroleum products: 72.2% carry gasoline, 77.8% carry diesel fuel, 77.8% carry kerosene, 50% carry aviation fuel, 33.3% carry LPG, 33.3% carry asphalt; that only about one-third of the petroleum carriers have a high (90-100%) equipment utilization rate; that 70.6% have excess capacity and could handle additional business with existing equipment; that if there is an increase in demand, 83.3% of the petroleum carriers would be able to meet the demand in terms of equipment availability, 88.9% of the petroleum carriers would be able to meet demand in terms of employees, 94.4% indicate that they would be able to meet demand in terms of financial position.

22. That as a result of this survey, there does not appear to be a real need in South Carolina for an additional petroleum carrier. This is based upon the shipper and the carrier survey results which suggests that the approximately 35 petroleum carriers are supplying adequate service and providing an ample choice of carriers.

23. That there is considerable competition existing in the intrastate petroleum carrier market.

24. That the nature of the South Carolina intrastate market for petroleum and petroleum products is such that any additional motor carrier entrant would necessarily deprive one or more

certificated intrastate carriers of market share and the attendant revenue.

25. That this deprivation would pose a substantial threat to the operations of carriers whose traffic and revenue would be diverted.

26. That the public has an interest in the maintenance of a vibrant and sound system for the intrastate transportation of petroleum and petroleum products in tank trucks.

27. That this interest is best served by giving due regard to the operational health and viability of those certificated intrastate motor carriers which have already done what is necessary to establish themselves in such a position as to enable them to render satisfactory service to the public, and have maintained such service in satisfaction of the public's need.

#### CONCLUSIONS OF LAW

Based upon the findings of fact made herein and the applicable law, the Commission reaches the following conclusions:

1. According to S.C. Code Ann. §58-23-330 (Cum. Supp. 1990), an applicant applying for a certificate to operate as a motor vehicle common carrier may be approved upon a showing that the applicant is fit, willing and able to appropriately perform the proposed service; provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. Commission Regulation R.103-134.1 sets forth the criteria for establishing whether an applicant is fit, willing and able.



2. That based upon the Application filed and evidence presented to the Commission, Coastal Transport, Inc. has demonstrated that it has the financial wherewithal, equipment, safety rating, employees, and requisite understanding of all statutes and regulations governing for-hire motor carrier operations in South Carolina and would operate in compliance with these statutes and regulations to meet the Commission's criteria for fitness, willingness, and ability as defined in R.103-134.1(A)(1)(a), (b) and (c).

3. That the Intervenor raised the issue that the public convenience and necessity is already being served through the testimony of its carrier witnesses and most conclusively through the survey conducted by witness Zuelsdorf.

4. That, based upon the survey results, additional petroleum carrier capacity is not needed.

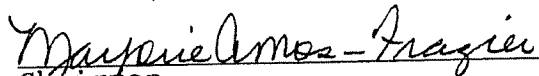
5. That existing petroleum carriers have the capacity to handle existing demand and future increases in demand for petroleum products carriage.

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6. That pursuant to S.C. Code Ann. §58-23-330 (Cum. Supp. 1990), the Commission has determined that the Application for a Class E Certificate as requested by Coastal Transport, Inc. be, and hereby is, denied on the basis that the public convenience and necessity is already being served.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)